

SENATE BILL 1746

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, regarding the definition of independent
contractors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-102, is amended by deleting in
its entirety subdivision (11) and by substituting instead the following:

(11) In a work relationship, in order to determine whether a sole proprietor or
partner is an "employee" or an "independent contractor", the following factors shall be
controlling:

(A) If the sole proprietor or partner provides the following documents, it
shall be conclusively presumed that the sole proprietor or partner is an
independent contractor:

- (1) Business license;
- (2) Tax identification number or employer identification number;
- (3) General liability insurance in the name of the sole proprietor or
partnership;
- (4) Contractor's license, if such license is offered by the state of
Tennessee for the particular trade practiced;
- (5) Invoice from sole proprietor or partner detailing work
performed and fee charged for services; and
- (6) Copy of prior year's federal income tax returns with schedule K
or other schedule attached showing that sole proprietor or partner's
income was not reported as an employee.

Further, if the sole proprietor or partner has any employees then the sole proprietor or partner must provide proof of workers' compensation insurance policy covering such employees.

(B) If the sole proprietor or partner is unable to provide the documents in subdivision (A) of this subdivision, then the following factors shall be considered:

- (1) The right to control the conduct of the work;
- (2) The right of termination;
- (3) The method of payment;
- (4) The freedom to select and hire helpers;
- (5) The furnishings of tools and equipment;
- (6) Self scheduling of working hours; and
- (7) The freedom to offer services to other entities.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.